

E AND R AMENDMENTS TO LB 67

Introduced by Murante, 49, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 2-3965, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 2-3965 (1) Sections 2-3965 to 2-3992 and section 9 of
6 this act and the publications adopted by reference in subsections
7 (2) and (3) of this section shall be known and may be cited as the
8 Nebraska Milk Act.

9 (2) The Legislature adopts by reference the following
10 official documents of the National Conference on Interstate Milk
11 Shipments as published by the United States Department of Health
12 and Human Services, United States Public Health Service/Food and
13 Drug Administration:

14 (a) Grade A Pasteurized Milk Ordinance, 2005 2011
15 Revision, as delineated in subsection (3) of this section;

16 (b) Methods of Making Sanitation Ratings of Milk
17 ~~Supplies~~, 2005 Shippers, 2011 Revision;

18 (c) Procedures Governing the Cooperative State-Public
19 Health Service/Food and Drug Administration Program of the National
20 Conference on Interstate Milk Shipments, 2005 2011 Revision; and

21 (d) Evaluation of Milk Laboratories, 2005 2011 Revision.

22 (3) All provisions of the Grade A Pasteurized Milk
23 Ordinance, 2005 2011 Revision, including footnotes relating to

1 requirements for cottage cheese, and the appendixes with which
2 the ordinance requires mandatory compliance are adopted with the
3 following exceptions:

4 (a) Section 9 of the ordinance is replaced by section
5 2-3969;

6 (b) Section 15 of the ordinance is replaced by section
7 2-3970;

8 (c) Section 16 of the ordinance is replaced by section
9 2-3974;

10 (d) Section 17 of the ordinance is not adopted; ~~and~~

11 (e) Section 3 of the ordinance, Administrative
12 Procedures, Issuance of Permits, is adopted with the following
13 modifications:

14 (i) The department may suspend a permit for a definite
15 period of time or place the holder of a permit on probation upon
16 evidence of violation by the holder of any of the provisions of the
17 Nebraska Milk Act; and

18 (ii) Decisions of the department may be appealed and such
19 appeals shall be in accordance with the Administrative Procedure
20 Act; ~~and-~~

21 (f) Section 1 of the ordinance, Definitions, is adopted
22 except for paragraph W.

23 (4) Copies of the Ordinance, the Appendixes, and the
24 publications, adopted by reference, shall be filed in the offices
25 of the Secretary of State, Clerk of the Legislature, and Department
26 of Agriculture.

27 Sec. 2. Section 2-3966, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 2-3966 For purposes of the Nebraska Milk Act, unless the
3 context otherwise requires:

4 ~~(1) 3-A sanitary standards means the standards for dairy~~
5 ~~equipment formulated by the 3-A sanitary standards committees~~
6 ~~representing the International Association of Milk, Food and~~
7 ~~Environmental Sanitarians, the United States Department of Health~~
8 ~~and Human Services, and the Dairy Industry Committee and published~~
9 ~~by the International Association of Milk, Food and Environmental~~
10 ~~Sanitarians in effect on July 1, 2001;~~

11 (1) 3-A Sanitary Standards means the standards for
12 dairy equipment promulgated jointly by the Sanitary Standards
13 Subcommittee of the Dairy Industry Committee, the Committee on
14 Sanitary Procedure of the International Association for Food
15 Protection, and the Milk Safety Team, Food and Drug Administration,
16 Public Health Service, Center for Food Safety and Applied
17 Nutrition, Department of Health and Human Services in effect on
18 January 1, 2013;

19 (2) Acceptable milk means milk that qualifies under
20 sections 2-3979 to 2-3982 as to sight and odor and that is
21 classified acceptable for somatic cells, bacterial content, drug
22 residues, and sediment content;

23 (3) Components of milk means whey, whey and milk protein
24 concentrate, whey cream, cream, butter, skim milk, condensed
25 milk, ultra-filtered milk, milk powder, dairy blends that are
26 at least fifty-one percent dairy components, and any similar milk
27 ~~by-product;~~ byproduct;

1 (4) C-I-P or cleaned-in-place means the procedure
2 by which sanitary pipelines or pieces of dairy equipment are
3 mechanically cleaned in place by circulation;

4 (5) Dairy products means products allowed to be made from
5 milk for manufacturing purposes and not required to be of Grade A
6 quality;

7 (6) Department means the Department of Agriculture;

8 (7) Director means the Director of Agriculture or his or
9 her duly authorized agent or designee;

10 (8) Field representative means an individual qualified
11 and trained in the sanitary methods of production and handling of
12 milk as set forth in the Nebraska Milk Act and who is generally
13 employed by a processing or manufacturing milk plant or cooperative
14 for the purpose of quality control work;

15 (9) First purchaser means a person who purchases raw milk
16 directly from the farm for processing or for resale to a processor,
17 who purchases milk products or components of milk for processing
18 or resale to a processor, or who utilizes milk from the first
19 purchaser's own farm for the manufacturing of milk products or
20 dairy products;

21 (10) Grade A Pasteurized Milk Ordinance means the
22 documents delineated in subsection (3) of section 2-3965;

23 ~~(9)~~ (11) Milk for manufacturing purposes means milk
24 produced for processing and manufacturing into products not
25 required by law to be of Grade A quality;

26 (12) Milk distributor means a person who distributes
27 milk, fluid milk, milk products, or dairy products whether or

1 not the milk is shipped within or into the state. The term does
2 not include a milk plant, a bulk milk hauler/sampler, or a milk
3 producer, as such terms are defined in the Grade A Pasteurized Milk
4 Ordinance, or a food establishment, as defined in the Nebraska Pure
5 Food Act;

6 ~~(10)~~ (13) Probational milk means milk classified
7 undergrade for somatic cells, bacterial content, or sediment
8 content that may be accepted by plants for specific time periods;
9 and

10 ~~(11)~~ (14) Reject milk means milk that does not qualify
11 under sections 2-3979 to 2-3982.

12 Sec. 3. Section 2-3971, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 2-3971 ~~(1)~~ Until July 31, 2008, as a condition precedent
15 to the issuance of a permit issued pursuant to the Nebraska Milk
16 Act, on or before August 1 of each year, the following described
17 annual permit fees shall be paid to the department:

18	Milk Plant	\$100.00
19	Receiving Station	100.00
20	Plant Fabricating Single-Service Articles ..	100.00
21	Milk Distributor	75.00
22	Transfer Station	50.00
23	Milk Tank Truck Cleaning Facility	50.00
24	Milk Transportation Company	25.00
25	Milk Hauler	25.00
26	Milk Producer	No Fee
27	Milk Tank Truck	No Fee

1 ~~(2) If the applicant is an individual, the application~~
2 ~~for a permit shall include the applicant's social security number.~~

3 ~~(3) Until September 30, 2007, all raw milk produced~~
4 ~~on farms or pasteurized in plants holding permits issued under~~
5 ~~the act shall be subject to the payment of inspection fees as~~
6 ~~prescribed in subsections (4) through (7) of this section. All~~
7 ~~fees shall be paid on or before the fifteenth of the month for~~
8 ~~milk produced or processed during the preceding month. Inspection~~
9 ~~fees for milk pasteurized outside of Nebraska shall be paid by the~~
10 ~~person shipping such raw milk outside the state. Inspection fees~~
11 ~~for milk pasteurized within Nebraska shall be paid by the plant~~
12 ~~pasteurizing such raw milk.~~

13 ~~(4) The inspection fee on raw milk produced on a Grade~~
14 ~~A farm holding a permit issued under the act and pasteurized at a~~
15 ~~Grade A plant holding a permit issued under such law shall be three~~
16 ~~cents per hundredweight of raw milk pasteurized.~~

17 ~~(5) The inspection fee on raw milk produced on a Grade~~
18 ~~A farm holding a permit issued under the act and pasteurized~~
19 ~~at a manufacturing milk plant shall be two and one-half cents~~
20 ~~per hundredweight of raw milk pasteurized in Nebraska, or per~~
21 ~~hundredweight of raw milk shipped from Nebraska, as appropriate.~~

22 ~~(6) The inspection fee on raw milk produced on a Grade~~
23 ~~A farm holding a permit issued under the act and pasteurized at a~~
24 ~~plant located outside of Nebraska shall be two and one-half cents~~
25 ~~per hundredweight of raw milk shipped from Nebraska.~~

26 ~~(7) The inspection fee on raw milk produced on a Grade~~
27 ~~A farm not holding a permit issued under the act and pasteurized~~

1 at a Grade A plant holding a permit issued under such law
2 shall be three-fourths of one cent per hundredweight of raw milk
3 pasteurized.

4 ~~(8)(a) Beginning August 1, 2008, as~~ (1)(a) As a condition
5 precedent to the issuance of a permit pursuant to the Nebraska Milk
6 Act, the annual permit fees shall be paid to the department on or
7 before August 1 of each year as follows:

8 (i) Milk ~~Plant~~ plant processing 100,000 or less pounds
9 per month...\$100.00;

10 (ii) Milk ~~Plant~~ plant processing 100,001 to 2,000,000
11 pounds per month...\$500.00;

12 (iii) Milk ~~Plant~~ plant processing more than 2,000,000
13 pounds per month...\$1,000.00;

14 (iv) Receiving Station
15 station.....\$200.00;

16 (v) ~~Plant Fabricating Single-Service Articles~~ fabricating
17 single-service articles..\$300.00;

18 (vi) Milk Distributor
19 distributor.....\$150.00;

20 (vii) Transfer Station
21 station.....\$100.00;

22 (viii) Milk Tank Truck Cleaning Facility tank truck
23 cleaning facility.....\$100.00;

24 (ix) Bulk Milk Hauler/Sampler milk
25 hauler/sampler.....\$25.00;

26 (x) Field Representative
27 representative.....\$25.00; and

1 (xi) Grade A Milk ~~Producer~~
2 producer.....No Fee; ~~and~~

3 (xii) Manufacturing milk
4 producer.....No Fee.

5 (b) ~~Beginning August 1, 2008, and on~~ On or before
6 each August 1 ~~thereafter~~ a Milk Transportation Company shall pay
7 twenty-five dollars for each milk tank truck in service on July 1
8 of the current year, but in no case shall the fee be less than one
9 hundred dollars.

10 ~~(9)(a)~~ ~~Beginning October 1, 2007, all~~ (2)(a) All milk or
11 components of milk produced or processed in Nebraska and milk or
12 components of milk shipped in for processing shall be subject to
13 the payment of inspection fees as provided in this subsection.

14 (b) There shall be three categories of inspection fees as
15 follows:

16 (i) The inspection fee for raw milk purchased directly
17 off the farm by first purchasers shall have a maximum inspection
18 fee of two and five-tenths cents per hundredweight for raw milk and
19 shall be paid by first purchasers;

20 (ii) The inspection fee for milk processed by a milk
21 plant shall be seventy-five percent of the fee paid by first
22 purchasers and shall be paid by the milk plant; and

23 (iii) The inspection fee for components of milk processed
24 shall be fifty percent of the fee paid by first purchasers and
25 shall be paid by the milk plant.

26 (c) All fees shall be paid on or before the ~~fifteenth~~
27 last day of the month for milk or components of milk produced

1 or processed during the preceding month. Any unpaid fee shall
2 be increased one and one-half percent each month beginning with
3 the day following the date the fee was due. Any remaining amount
4 due, including any unpaid charges previously made pursuant to this
5 section, shall be increased at the same rate on the corresponding
6 day of each succeeding month until paid. The purpose of increasing
7 the fees is to cover the administrative costs associated with
8 collecting fees, and all money collected as increased fees shall be
9 remitted to the State Treasurer for credit to the Pure Milk Cash
10 Fund.

11 (d) The director may raise or lower the inspection fees
12 each year, but the fees shall not exceed the maximum fees set out
13 in subdivision (b) of this subsection. The director shall determine
14 the fees based on the estimated annual revenue and fiscal year-end
15 fund balance determined as follows:

16 (i) The estimated annual revenue shall not be greater
17 than one hundred seven percent of the program cash fund
18 appropriations allocated for the Nebraska Milk Act;

19 (ii) The estimated fiscal year-end cash fund balance
20 shall not be greater than seventeen percent of the program cash
21 fund appropriations allocated for the act; and

22 (iii) All fee increases or decreases shall be equally
23 distributed between categories to maintain the percentages set
24 forth in subdivision (b) of this subsection.

25 ~~(10)~~ (3) If any person required to have a permit pursuant
26 to the act has been operating prior to applying for a permit,
27 an additional fee of one hundred dollars shall be paid upon

1 application.

2 Sec. 4. Section 2-3975, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-3975 The director shall make and publish the results of
5 periodic surveys of milksheds to determine the degree of compliance
6 with the sanitary requirements for the production, processing,
7 handling, distribution, sampling, and hauling of milk and milk
8 products as provided in the Nebraska Milk Act. The director
9 shall have the power to adopt and promulgate reasonable rules
10 and regulations in accordance with the procedure defined in the
11 Administrative Procedure Act for the interpretation and enforcement
12 of this section. Such a survey or rating of a milkshed shall
13 follow the procedures prescribed by the United States Department
14 of Health and Human Services, United States Food and Drug
15 Administration, in its documents, as delineated in section 2-3965,
16 entitled Methods of Making Sanitation Ratings of Milk Supplies,
17 2005 Revision, Shippers and Procedures Governing the Cooperative
18 State-Public Health Service/Food and Drug Administration Program
19 for Certification of Interstate Milk Shippers, 2005 Revision, of
20 the National Conference on Interstate Milk Shipments.

21 Sec. 5. Section 2-3976, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 2-3976 All fees paid to the department in accordance with
24 the Nebraska Milk Act shall be remitted to the State Treasurer for
25 credit to the Pure Milk Cash Fund, which fund is hereby created.
26 All money credited to the fund shall be appropriated to the uses
27 of the department to aid in defraying the expenses of administering

1 the act. Any money in the fund available for investment shall be
2 invested by the state investment officer pursuant to the Nebraska
3 Capital Expansion Act and the Nebraska State Funds Investment Act.
4 ~~Any money in the Manufacturing Milk Cash Fund on September 1, 2007,~~
5 ~~shall be transferred to the Pure Milk Cash Fund on such date.~~

6 Sec. 6. Section 2-3977, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 2-3977 (1) ~~Beginning August 1, 2008,~~ Milk plants
9 or any entity purchasing raw milk from producers holding a permit
10 under the Nebraska Milk Act may employ, contract with, or otherwise
11 provide for the services of a competent and qualified field
12 representative who may:

13 (a) Inform new producers about the requirements of dairy
14 farm sanitation and assist dairy producers with milk quality
15 problems;

16 (b) Collect and submit samples at the request of the
17 department; and

18 (c) Advise the department of any circumstances that could
19 be of public health significance.

20 (2) An applicant for a field representative permit shall
21 be trained in the sanitation practices for the sampling, care of
22 samples, and milk hauling requirements of the Nebraska Milk Act.
23 Prior to obtaining a field representative permit, the applicant
24 shall take and pass an examination approved by the department and
25 shall pay the permit fee set forth in section 2-3971. The permit
26 shall expire on July 31 of the year following issuance.

27 Sec. 7. Section 2-3981, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 2-3981 (1) All dairy plants using milk for manufacturing
3 purposes shall run the quality tests set out in this section in a
4 state-certified laboratory and report the results to the department
5 upon request. The test methods shall be those stated in laboratory
6 procedures.

7 (2) Milk for manufacturing purposes shall be classified
8 for bacterial content by the standard plate count or plate loop
9 count. Bacterial count limits of individual producer milk shall not
10 exceed five hundred thousand per milliliter.

11 (3) Bacterial counts for milk for manufacturing purposes
12 shall be run at least four times in six consecutive months
13 at irregular intervals at times designated by the director on
14 representative samples of each producer's milk. Whenever any two
15 out of four consecutive bacterial counts exceed five hundred
16 thousand per milliliter, the producer shall be sent a written
17 notice by the department. Such notice shall be in effect so long
18 as two of the last four consecutive samples exceed the limit
19 of the standard set out in ~~subdivision (1)~~ subsection (2) of
20 this section. A producer sample shall be taken between three and
21 twenty-one days after the second excessive count. If that sample
22 indicates an excessive bacterial count, the producer's milk shall
23 be rejected until subsequent testing indicates a bacterial count of
24 five hundred thousand per milliliter or less.

25 (4) All standards and procedures of the Grade A
26 Pasteurized Milk Ordinance, ~~2005 Revision,~~ relating to somatic
27 cells shall apply to milk for manufacturing purposes.

1 (5) The industry shall test all producer's milk and bulk
2 milk pickup tankers for drug residues in accordance with Appendix
3 N, Drug Residue Testing and Farm Surveillance, of the Grade A
4 Pasteurized Milk Ordinance, ~~2005 Revision.~~

5 Sec. 8. Section 2-3982, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 2-3982 (1) Milk for manufacturing purposes shall be
8 classified for sediment content, regardless of the results of
9 the appearance and odor examination described in section 2-3980,
10 according to sediment standards as follows:

11 (a) No. 1: Acceptable, not to exceed fifty-hundredths
12 milligrams or its equivalent;

13 (b) No. 2: Acceptable, not to exceed one and
14 fifty-hundredths milligrams or its equivalent;

15 (c) No. 3: Probational, not over ten days, not to exceed
16 two and fifty-hundredths milligrams or its equivalent; and

17 (d) No. 4: Reject, over two and fifty-hundredths
18 milligrams or its equivalent.

19 (2) Methods for determining the sediment content of the
20 milk of individual producers shall be the methods described in 7
21 C.F.R. 58.134, as such section existed on July 1, ~~2006.~~ 2011.

22 (3) Sediment testing shall be performed at least four
23 times every six months at irregular intervals as designated by the
24 director.

25 (4) If the sediment disc is classified as No. 1, No. 2,
26 or No. 3, the producer's milk may be accepted. If the sediment disc
27 is classified as No. 4, the milk shall be rejected. A producer's

1 milk that is classified as No. 3 may be accepted for a period
2 not to exceed ten calendar days. If at the end of ten days the
3 producer's milk does not meet acceptable sediment classification
4 No. 1 or No. 2, it shall be rejected from the market. If the
5 sediment disc is classified as No. 4, the milk shall be rejected
6 and no further shipments accepted unless the milk meets the
7 requirements of No. 3 or better.

8 Sec. 9. A facility producing milk for manufacturing
9 purposes in existence prior to July 1, 2013, which does not meet
10 all of the requirements of the Grade A Pasteurized Milk Ordinance
11 shall be acceptable for use only if it meets the requirements of
12 sections 2-3983 to 2-3989. After July 1, 2013, all new facilities
13 that produce milk and facilities that produce milk that are under
14 new ownership shall be required to meet the requirements of the
15 Grade A Pasteurized Milk Ordinance.

16 Sec. 10. Section 2-3986, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 2-3986 Milk for manufacturing purposes in farm bulk tanks
19 shall be cooled to forty degrees Fahrenheit or lower within two
20 hours after milking and maintained at fifty degrees Fahrenheit or
21 lower until transferred to the transport tank. Milk offered for
22 sale for manufacturing purposes shall be in a farm bulk tank that
23 meets all 3-A ~~sanitary standards.~~ Sanitary Standards.

24 Sec. 11. Section 2-3988, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 2-3988 At a facility producing milk for manufacturing
27 purposes, utensils, milk cans, milking machines, including pipeline

1 systems, and other equipment used in the handling of milk shall
2 be maintained in good condition, shall be free from rust,
3 open seams, milkstone, or any unsanitary condition, and shall
4 be washed, rinsed, and drained after each milking, stored in
5 suitable facilities, and sanitized immediately before use. New or
6 replacement can lids shall be umbrella type. All new utensils,
7 new farm bulk tanks, and equipment shall meet 3-A ~~sanitary~~
8 ~~standards~~ Sanitary Standards and comply with applicable rules and
9 regulations of the department. Equipment manufactured in conformity
10 with 3-A Sanitary Standards complies with the sanitary design and
11 construction standards of the Nebraska Milk Act.

12 Sec. 12. Section 2-3989, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 2-3989 The water supply at a facility producing milk for
15 manufacturing purposes shall be safe, clean, and ample for the
16 cleaning of dairy utensils and equipment. The water supply shall
17 meet the bacteriological standards established by the Department
18 of Health and Human Services at all times. Water samples shall
19 be taken, analyzed, and found to be in compliance with the
20 requirements of the Nebraska Milk Act prior to the issuance of a
21 permit to the producer and whenever any major change to the well
22 or water source occurs. Wells or water sources which do not meet
23 the construction standards of the Department of Health and Human
24 Services shall be tested annually, and wells or water sources which
25 do meet the construction standards of the Department of Health and
26 Human Services shall be tested every three years. Whenever major
27 alterations or repairs occur or a well or water source repeatedly

1 recontaminates, the water supply shall be unacceptable until such
2 time as the construction standards are met and an acceptable
3 supply is demonstrated. ~~On and after October 1, 1989, all~~ All
4 new producers issued permits under the Nebraska Milk Act shall
5 be required to meet the construction standards established by the
6 Department of Health and Human Services for private water supplies.

7 Sec. 13. Original sections 2-3965, 2-3966, 2-3971,
8 2-3975, 2-3976, 2-3977, 2-3981, 2-3982, 2-3986, 2-3988, and 2-3989,
9 Reissue Revised Statutes of Nebraska, are repealed.

10 Sec. 14. Since an emergency exists, this act takes effect
11 when passed and approved according to law.